

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Bradford**

A Bill

ACT 1319 OF 1995
SENATE BILL 716

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 19-4-1405 PERTAINING TO
9 BIDDING REQUIREMENTS FOR STATE AGENCY CONTRACTING AND
10 ARKANSAS CODE § 22-9-203 PERTAINING TO PUBLIC WORKS
11 CONTRACTS; AND FOR OTHER PURPOSES."

Subtitle

14 "AN ACT TO AMEND SECTIONS OF THE
15 ARKANSAS CODE PERTAINING TO BIDDING
16 REQUIREMENTS FOR STATE AGENCY
17 CONTRACTING AND PUBLIC WORKS
18 CONTRACTING."

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23 SECTION 1. Arkansas Code § 19-4-1405 is amended to read as follows:

24 "19-4-1405. Bidding procedure.

25 (a) (1) After a state agency has caused the preparation and has approved
26 plans and specifications, it shall then proceed to advertise for bids for the
27 contemplated work by the publication of notice one (1) time each week, for not
28 less than two (2) consecutive weeks. This notice shall be published in one (1)
29 or more newspapers of general circulation published in Little Rock, Arkansas,
30 and in such other newspapers or trade or construction journals as, in the
31 opinion of the agency, may be desirable. The last insertion shall be not less
32 than one (1) week prior to the date on which the bids are to be received.

33 (2) The notice shall:

34 (A) Provide for the receipts of sealed bids;

35 (B) Set forth the time and place in which the bids will be received;

36 (C) Specify from whom copies of the plans and specifications and a

1 draft of the proposed contract may be obtained for examination;

2 (D) Contain the amount of the bid bond; and

3 (E) Contain such other information and requirements as, in the opinion
4 of the agency, may be necessary or desirable.

5 (b) (1) On the date and time fixed in the notice, the agency shall open,
6 tabulate, and compare bids, and award the contract to the lowest responsible
7 bidder. However, the agency shall have the right to reject any or all bids.

8 (2) The successful bidder shall be required to furnish bonds to the State
9 of Arkansas, with corporate guaranty or indemnity sureties thereon. The bonds
10 shall be both for the completion of the construction free of all liens and
11 encumbrances, in an amount fixed by Arkansas State Building Services, and for
12 the protection of the agency and its members against all liability for injury
13 to person or damage to, or loss of, property arising, or claimed to have
14 arisen, in the course of the work project, within limits fixed by Arkansas
15 State Building Services. Every bid submitted on state agency construction
16 contracts shall be void unless accompanied by a certified check or by
17 *corporate bid bond*. Such *bid security* shall indemnify the public against
18 failure of the contractor to execute and deliver the contract and necessary
19 bonds for faithful performance of the contract. The *bid security* shall
20 provide that the contractor or surety must pay the damage, loss, cost and
21 expense subject to the amount of the *bid security* directly arising out of the
22 contractor's default in failing to execute and deliver the contract *and bonds*.
23 *Liability under this bid security shall be limited to five percent (5%) of*
24 *the amount of the bid.*

25 (c) Whenever it is obvious from examination of the bid document that it
26 was the intent of a bidder to submit a responsive bid, and the bid, because of
27 scrivener error such as transposition of figures, if accepted would create a
28 serious financial loss to the bidder, the Director of State Building Services
29 has the authority to relieve the bidder from responsibility under his bond and
30 may reject his bid."

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32 SECTION 2. Arkansas Code § 22-9-203 is amended to read as follows:

33 "§ 22-9-203. Public improvements generally - Award procedure.

34 (a) No contract providing for the making of major repairs or alterations,
35 for the erection of buildings or other structures, or for making other

1 permanent improvements shall be entered into by the state, or any agency
2 thereof, any county, municipality, school district, or other local taxing unit
3 with any contractor in those instances where all estimated costs of the work
4 shall exceed the sum of ten thousand dollars (\$10,000) for counties and
5 municipalities and the sum of thirty thousand dollars (\$30,000) for any school
6 district. This sum of thirty thousand dollars (\$30,000) is to be adjusted
7 annually by the Director of State Building Services by issuing a new sum,
8 adjusted according to the building costs increase for the previous twelve (12)
9 months, by June 30 of each year, with his order being published in the
10 Arkansas Register. These sums shall not be exceeded unless the taxing unit
11 shall have first published notice of its intention to receive bids therefor
12 one (1) time each week for not less than two (2) consecutive weeks in a
13 newspaper of general circulation published in the county in which the proposed
14 improvements are to be made or in a trade journal reaching the construction
15 industry.

16 (b) (1) The date of publication of the last notice shall be not less than
17 one (1) week before the day fixed therein for the receipt of bids.

18 (2) If there is no newspaper regularly published in the county in which
19 the proposed work is to be done, the notices may be published in any newspaper
20 having a general circulation in the county.

21 (3) Nothing in this section shall be construed as limiting to two (2) the
22 number of weeks the notices may be published.

23 (c) All notices shall contain a brief description of the kind or type of
24 work contemplated; the approximate location thereof; the place at which
25 prospective bidders may obtain plans and specifications; the date, time, and
26 place at which sealed bids will be received; the amount, which may be stated
27 in a percentage, of the bid bond required; a statement of the taxing unit's
28 reservation of the right to reject any or all bids and to waive any
29 formalities; and such other pertinent facts or information which to it may
30 appear necessary or desirable. Every bid submitted on public construction
31 contracts for the state or any agency or department of the state or any
32 political subdivision of the state shall be void unless accompanied by a
33 certified check or by *corporate bid bond*. This *bid security* shall indemnify
34 the public against failure of the contractor to execute and deliver the
35 contract and necessary bonds for faithful performance of the contract. *The*

1 *bid security shall provide that the contractor or surety must pay the damage,*
2 *loss, cost and expense subject to the amount of the bid security directly*
3 *arising out of the contractor's default in failing to execute and deliver the*
4 *contract and bonds. Liability under this bid security shall be limited to*
5 *five percent (5%) of the amount of the bid.*

6 (d) On the date and time fixed in the notice, the board, commission,
7 officer, or other authority in which or in whom authority is vested to award
8 contracts, shall open and compare the bids and thereafter award the contract
9 to the lowest responsible bidder, but only if it is the opinion of the
10 authority that the best interests of the taxing unit would be served thereby.

11 (e) In the event that all bids submitted exceed the amount appropriated
12 for the award of the contract and if bidding on alternates was not required by
13 the plans and specifications, the state agency or its designated
14 representatives shall have the authority to negotiate an award with the
15 apparent responsible low bidder, but only if the low bid is within twenty
16 percent (20%) of the amount appropriated.

17 (f) (1) Should the plans and specifications for the project require bids
18 on alternates in addition to a base bid, the alternates shall be deductive, as
19 distinguished from additive, and shall be set forth in the plans and
20 specifications in numerical order.

21 (2) In the event that all bids submitted exceed the amount appropriated
22 for the award of the contract, the state agency may determine the apparent
23 responsible low bidder by deducting the alternates in numerical order.

24 (3) After making the deductions, if the cost of the project is less than
25 twenty percent (20%) above the amount appropriated, then, and only in that
26 event, the state agency may negotiate an award with the low bidder so
27 determined.

28 (g) Whenever it is obvious from examination of the bid document that it
29 was the intent of a bidder to submit a responsive bid, and the bid, if
30 accepted, would create a serious financial loss to the bidder because of
31 scrivener error such as transposition of figures, the board, commission,
32 officer, or other authority in which or in whom authority is vested has the
33 authority to relieve the bidder from responsibility under his bond and may
34 reject his bid."

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1 SECTION 3. All provisions of this act of a general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 4. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 5. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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/s/Bradford

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APPROVED: 4-14-95

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